

May 12, 2020

Thank you for the opportunity to provide written testimony against HB 5679. I am opposed to this bill because it doesn't address those individuals sentenced under Holmes Youthful Trainee Act (HYTA). In 2003, as a 17-year-old adolescent, I was sentenced in the Ottawa County courts, and promised that if I met all the requirements of my sentence, my file would be sealed under HYTA. I met every requirement which included community service, meetings, probation and graduating from high school. I was released from probation five months early because I worked so hard. My file was sealed as promised.

The State of Michigan Department of Corrections website states the following as the definition of Holmes Youthful Trainee Act, http://www.michigan.gov/corrections/1,1607,7-119-1441_1519---,00.html
*Holmes Youthful Trainee Act - State law allows a judge to place a youth between 17 and 20 who is alleged to have committed a crime and who has pleaded guilty to that crime to be placed in prison or on probation without a conviction to avoid a criminal record. Excluded from this program are youth who are charged with a felony for which the maximum punishment is life imprisonment, a major controlled substance offense or a traffic offense. **This action protects the privacy of the offender while on trainee status. If the youth successfully completes the program, there is no criminal record. Imprisonment or probation cannot exceed three years.***

Holmes Youthful Trainee Status works to protect "the privacy of the offender." I receive no privacy on the Sex Offender Registry. I have had challenges in finding employment, especially in light of school zone regulations, and registration requirements. Relationships are challenging as early-on I need to tell the person I'm interested in that I'm on the Registry. It becomes even more difficult when I tell them my record is sealed but still need to register. That's very difficult for people to understand. Also, following the 2011 SORA changes my status has now been changed to a lifetime registry on the same tier as the most serious offenders.

Precedence has been set with *People vs. Temelkoski*, No. 150643 (Michigan Supreme Court, January 24, 2018). This ruling stated that HYTA youth cannot be subjected to the Sex Offender Registry Act if they pled under the expectation of a sealed record. Please take this case into consideration as you make your deliberations.

I ask that you think back to your 17-year-old self and ask if there was anything in your past that you wish you had not done. Every day for the past 17 years I wished that I had not made the mistake I made as an adolescent. The past can't be changed but the courts involved in my case believed in me, and knew I had value to add to my community. I respectfully request that HB 5679 be sent back for amending to remove those sentenced under the Holmes Youthful Trainee Act. I also request that if that's not possible, please work for legislation to reinstate the length of registry mandated by the courts when sentenced. The retroactive application of all of the amendments to those convicted before 2006 violates the United States Constitution's rule against ex post facto laws.

Justice is not being served with my lifetime registry. I continue to be punished for an immature, adolescent mistake.

Respectfully,

Andrew S. Bouwman